

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
SUZANNE GENEREUX, <u>et al.</u> ,	)	
Plaintiffs,	)	C.A. NO. 04-12137-JLT
	)	
v.	)	
	)	
AMERICAN BERYLLIA CORP.,	)	
<u>et al.</u> ,	)	
Defendants.	)	
_____	)	

**MOTION OF DEFENDANT RAYTHEON  
COMPANY TO DISMISS THE CONTRIBUTION AND INDEMNIFICATION  
CROSS-CLAIMS OF CO-DEFENDANT HARDRIC LABORATORIES, INC.**

Defendant Raytheon Company ("Raytheon") hereby moves, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss the contribution and indemnification cross-claims of co-defendant Hardric Laboratories, Inc. ("Hardric") for failure to state a claim upon which relief can be granted.

As grounds therefor, Raytheon states the following:

1. Hardric answered plaintiffs' complaint and included in its responsive pleading a cursory cross-claim for contribution and/or indemnification against all its co-defendants, including Raytheon.

2. In order for Hardric to maintain a claim for contribution, a derivative claim, against Raytheon, Raytheon must have some direct liability to the plaintiffs.

3. As set forth by Raytheon in its recently-filed motion to dismiss plaintiffs' claims (and Raytheon's memorandum in support of that motion), the sole count in the Amended Complaint asserted against Raytheon, Count VIII, purports to state a claim for "medical monitoring" but fails to state a claim upon which relief can be granted.

4. Because Raytheon has no direct liability to the plaintiffs here, Hardric's derivative claim for contribution must fail.

5. Hardric's cross-claim for indemnification also appears to be based on its assertion that Raytheon is liable to the plaintiffs, which it is not, as Raytheon demonstrated in its recent motion to dismiss plaintiffs' sole claim against it. Hardric pleads no other basis for indemnification.

For these reasons, all as set forth further in the accompanying memorandum of law, Raytheon respectfully requests that this Court dismiss Hardric's cross-claim against it.

**REQUEST FOR ORAL ARGUMENT**

Raytheon Company hereby respectfully requests oral argument  
on the within motion.

RAYTHEON COMPANY  
By its attorneys,

/s/ James F. Kavanaugh, Jr.  
/s/ Ronald M. Jacobs  
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DATED: November 29, 2004

**LOCAL RULE 7.1(A)(2) CERTIFICATION**

I hereby certify that I conferred with counsel for  
defendant, Hardric Laboratories, Inc., and attempted in good  
faith to resolve or narrow the issue presented herein.

/s/ Ronald M. Jacobs  
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